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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

ALFRED RAY MORGAN,

Defendant and Appellant.

B270322

(Los Angeles County
Super. Ct. No. KA105760)

APPEAL from the judgment of the Superior Court of Los Angeles County. George Genesta, Judge. Affirmed as modified.

Carlos Ramirez, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Michael R. Johnsen and Lindsay Boyd, Deputy Attorneys General, for Plaintiff and Respondent.

* * * * *

Defendant and appellant Alfred Ray Morgan appeals from his conviction by jury of one count of second degree burglary and one count of forgery. Defendant argues the court erred in imposing consecutive sentences and should have stayed the sentence on the forgery count pursuant to Penal Code section 654. Respondent concedes the sentencing error. We conclude the sentence on the forgery count should have been stayed and therefore modify the judgment accordingly, and otherwise affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Following a jury trial in September 2015, defendant was convicted of one count of second degree burglary (Pen. Code, § 459) and one count of forgery (§ 470, subd. (d)). The charges arose from an incident on January 23, 2014, in which defendant entered a Bank of America branch in La Verne and tried to cash a forged check.

After the verdict, defendant admitted his prior serious felony and his three prior prison terms. The court sentenced defendant to a state prison term of seven years calculated as follows: a two-year middle term on the burglary count, the base count, doubled due to defendant's prior strike, plus three 1-year terms for the prior prison terms. On the forgery count, the court also imposed a middle term of two years, doubled to four years due to the strike. The court ordered the sentence on the forgery count to run concurrently.

This appeal followed.

DISCUSSION

Respondent concedes defendant's argument that his sentence on the forgery count should have been stayed by the trial court pursuant to Penal Code section 654, instead of ordered

to run concurrent. We agree with the parties. The record demonstrates the burglary and forgery “were part of the same indivisible transaction, both committed for a single criminal objective,” to cash the fraudulent check. (*People v. Casica* (2014) 223 Cal.App.4th 320, 324.) The sentence on the forgery count should have been stayed. We modify the judgment of conviction accordingly, and otherwise affirm.

DISPOSITION

The judgment of conviction is modified to reflect a stay of the sentence imposed on the forgery count pursuant to Penal Code section 654. The superior court is directed to prepare and transmit a modified abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.